

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

John D. West, on Behalf of Himself and	)	
All Other Persons Similarly Situated,	)	Case No. C-1-02-0001
Plaintiffs,	)	
	)	
v.	)	District Judge Sandra S. Beckwith
	)	
AK Steel Corp. Retirement Accumulation	)	
Pension Plan, et al.	)	Magistrate Judge Timothy S. Black
Defendants.	)	

**SUBMISSIONS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT  
ON THE ISSUES OF DAMAGES AND PREJUDGMENT INTEREST**

Plaintiffs, by and through their undersigned counsel and pursuant to S. D. Ohio Civ. R. 7.2(d),<sup>1</sup> herewith respectfully submit the below-listed documents for the Court's consideration in conjunction with Plaintiffs' Motion for Partial Summary Judgment on the Issues of Damages and Prejudgment Interest:

- The Affidavit of Michael L. Libman, executed on October 12, 2004;
- The exhibits to Mr. Libman's Affidavit –
  - < Exhibit 1: Summary of Underpayments,
  - < Exhibit 2: Method of Calculation,
  - < Exhibit 3: Interest Rates and Mortality Factors,
  - < Exhibit 4: Proposed Schedule of Underpayments, and
  - < Exhibit 5: Alternative Schedule of Underpayments (with Pre-Retirement Mortality Discount); and

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<sup>1</sup> "When proof of facts not already of record is necessary to support or oppose a motion, all evidence then available shall be discussed in, and submitted no later than, the primary memorandum of the party relying upon such evidence." S. D. Ohio Civ. R. 7.2(d).

- The Report of Lawrence Sher, dated August 27, 2004,<sup>2</sup> *sans* appendix and exhibits.<sup>3</sup>

Mr. Libman's Affidavit and Exhibits 1, 2 and 3 thereto, and the Report of Lawrence Sher, are filed electronically with the Clerk of the Court using the Court's CM/ECF system, which will send notification of such filing to the following:

Thomas A Downie	tdownie@gntlaw.com
Allen C Engerman	acelaw@mcn.org
Stuart J Evans	sevans@cov.com
Robert D Gary	office@gntlaw.com
Jori Bloom Naegele	Jnaegele@gntlaw.com
Michael A Roberts	mroberts@graydon.com
Thomas R Theado	ttheado@gntlaw.com
Robert D Wick	rwick@cov.com

I hereby certify that I have mailed by United States Postal Service Mr. Libman's Affidavit and Exhibits 1, 2 and 3 thereto, and the Report of Lawrence Sher, to the following non-CM/ECF participants:

Christopher M Denig  
Covington and Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, DC 20044

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2 The personal identifying information of individual class members, which may implicate privacy concerns, has been redacted from Mr. Sher's Report, pursuant to Section II(I)(1) of the Court's Electronic Filing Policies and Procedures Manual, and consistent with the Court's Notation Order that was entered in this action on October 13, 2004, granting Plaintiffs' Motion to File Exhibits 4 and 5 Under Seal (Doc. No. 59, filed Oct. 12, 2004).

3 It should be noted that the differences between Mr. Libman's and Mr. Sher's calculations, to which Mr. Sher refers at Section II of his report, have been eliminated from the results reported in Mr. Libman's Affidavit. *See* Libman Affidavit at ¶ 4.

Exhibits 4 and 5 to Mr. Libman's Affidavit are filed under seal, pursuant to the Notation Order of Judge Sandra S. Beckwith that was entered in the above-captioned action on October 13, 2004, granting Plaintiffs' Motion to File Exhibits 4 and 5 Under Seal (Doc. No. 59, filed Oct. 12, 2004), and further pursuant to S. D. Ohio Civ. R. 79.3. I hereby certify that I served via e-mail true and exact copies of said Exhibits 4 and 5 in proper PDF format on defendants' counsel, Messrs. Roberts and Wick, on October 15, 2004.

Respectfully submitted,

s/ Thomas R. Theado  
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Counsel for Plaintiffs

### **CERTIFICATE OF SERVICE**

I hereby certify that on October 15 , 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Thomas A Downie	tdownie@gntlaw.com
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